HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 5815 OF 2001

Between:

Akula Venkata Bhaskara Rao & another

..... Petitioners

AND

The Government of Andhra Pradesh,
Rep. By its Secretary, Law(L) Department,
Hyderabad & others

.....Respondents

:: O R D E R ::

Counsel for the petitioners : Shri A. Satyanarayana

Counsel for the respondents : Government Pleader for Home

Dated: 26.12.2006

Per G.S.SINGHVI, CJ

In this petition, the petitioners have prayed for issue of a

direction to the respondents to cancel the written examination held on 04.03.2001 for recruitment of Additional Public Prosecutors. They have further prayed for issue of a mandamus to the respondents to conduct fresh examination and allow them to participate in such examination.

The petitioners are practicing as advocates at Vijayawada. In furtherance of advertisement issued by the competent authority, they applied for recruitment as Additional Public Prosecutors. They were issued hall ticket Nos. 9900220 and 9900292 for appearing in the examination scheduled to be held on 04.03.2001 between 09.00 a.m. and 12.00 hours and 2.00 p.m. to 05.00 p.m. at Nizam College, Basheerbagh, Hyderabad, but they did not appear in the examination.

In the affidavit filed by petitioner No.1, Akula Venkata Bhaskara Rao, it has been averred that he and the second petitioner Sultan Ahmed did not come to Hyderabad to take the examination because, through newspapers dated 30.3.2001, they learnt that the High Court has stayed the written examination. According to the deponent, the examination was, in fact, held on 04.3.2001 because operation of the stay order passed by the learned Single Judge was suspended by the Division Bench in W.A.M.P.No.594 of 2001 in Writ Appeal No. 306 of 2001, which was filed by the State Government and was taken up by the Division Bench as house motion on 03.03.2001, but, on account of the misleading news appearing in the papers about the stay order passed by the learned Single Judge, they were prevented from appearing in the examination. They have also pleaded that they and large number of other candidates could not take the examination because of lack of information about the order passed by the Division Bench on 03.03.2001 and, therefore, they are entitled to an opportunity to appear in the examination.

In the counter-affidavit filed on behalf of the respondents, it has been averred that applications were invited for recruitment of 17 Additional Public Prosecutors vide notification dated 01.06.1999; that hall tickets were issued to all eligible candidates including the petitioners, but they did not appear in the examination held on the appointed date and at the appointed time.

We have heard learned counsel for the parties. In our opinion, the prayer made by the petitioners for cancellation of the written examination held on 04.03.2001 is liable to be rejected because –

(a) non-appearance at the written examination held on 4-3-2001 was voluntarily act on their part and the respondents are in no way responsible for this;

(b) it is neither the pleaded case of the petitioners nor any evidence has been produced before the Court to show that the news regarding stay granted by the learned Single Judge was published in the newspaper dated 03.03.2001 at the instance of the respondents;

(c) the mere fact that the newspapers had given credence to interim order dated 02.03.2001 passed by the learned Single Judge and, on that account, the petitioners may have been mislead in believing that the examination scheduled on 04.03.2001 will not be held cannot be made a ground for cancellation of the examination ignoring the fact that the interim order passed by the learned Single Judge was suspended by the Division Bench on 03.03.2001. If the petitioners did not get information about the order of the Division Bench, they cannot blame the respondents; and

(d) the petitioners have not impleaded any of the candidates who took examination held on 04.03.2001 and without issuing notice and hearing such candidates, the Court cannot annul

the examination.

For the reasons stated above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No. 7407 of 2001 filed by the petitioners for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

26.12.2006
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S.No.	W.P. No.	Corresponding W.P.No. in earlier litigation	Date of order in W.P.M.P. ordering status quo	Date of order in W.P.	Date of interim order in WAMP in Writ Appeal	Date of dismissal of W.A.
1)	17076/2000	5282 of 1993	23-4-93	3.6.94.	20.9.94	29.2.96
2)	17077/2000	5539 of 1993	28.4.93	-do-	-do-	-do-
3)	17078/2000	5327 of 1993	26.4.93	-do-	-do-	-do-
4)	17108/2000	5569 of 1993	28.4.93	-do-	-do-	-do-
5)	17109/2000	5540 of 1993	28.4.93	-do-	-do-	-do-
6)	17110/2000	6653 of 1993	19.5.93	25.3.96	No writ appeal	---

The above recapitulation of facts and tabular statement of the orders passed in different cases makes it clear that on account of the interim orders

of status quo passed by this Court in the writ petitions filed by the appellants, respondent No.2 could not undertake the exercise for passing award in respect of Ac.11-96 cts. The last order of status quo was passed on 19-5-1993 in WPMP No.8430 of 1993 in Writ Petition No.6653 of 1993. That petition was finally dismissed on 25-3-1996 and the award was passed on 12-3-1998. Therefore, by virtue of the explanation appearing below Section 11A, the period during which the proceedings in furtherance of declaration made under Section 6 remained stayed is liable to be excluded in computing the period of two years specified in Section 11A.

In **Abhey Ram**'s case (supra), a three Judges Bench of the Supreme Court considered the question somewhat similar to the one raised in these appeals. The factual matrix of that case